

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SALVATORE TARAVELLA,

Petitioner,

v.

MICHELE EBERLIN,

Respondent.

CASE NO. 2:05-cv-0588

JUDGE HOLSCHUH

MAGISTRATE JUDGE KEMP

OPINION AND ORDER

On January 6, 2006, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed as barred by the one-year statute of limitations under 28 U.S.C. §2244(d). Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. Petitioner again asserts that he is incompetent and that equitable tolling of the statute of limitations therefore is appropriate. As noted in the Magistrate Judge's *Report and Recommendation*, nothing in the record supports petitioner's allegation that he was unable to litigate his claims during the time period at issue.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted *de novo* review of the *Report and Recommendation*. For the reasons discussed in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**.

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

IT IS SO ORDERED.

January 27, 2006

/s/ John D. Holschuh
JOHN D. HOLSCHUH
United States District Judge